

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAWRENCE MINKOFF, et al.,	:	CIVIL ACTION NO. 08-6379 (MLC)
	:	
Plaintiffs,	:	ORDER & ORDER TO SHOW CAUSE
	:	
v.	:	
	:	
CHUBB CORPORATION, et al.,	:	
	:	
Defendants.	:	
_____	:	

THE PLAINTIFFS – who are New York citizens – (1) bringing this action for breach of an insurance policy (“Policy”) covering their home (“Home”), and (2) alleging that there is jurisdiction under 28 U.S.C. § (“Section”) 1332 (dkt. entry no. 1, Compl.); but

THE COURT having broad discretion under Section 1404 to consider a transfer of venue to a district where an action might have been more properly brought, see Jumara v. State Farm Ins. Co., 55 F.3d 873, 875, 877 n.3, 883 (3d Cir. 1995); and

IT APPEARING that this action would have been more properly brought in the United States District Court for the Eastern District of New York, where (1) the plaintiffs are domiciled, thereby requiring the Court to give less deference to their choice of a New Jersey venue, (2) the Home is located, i.e., in Nassau County, New York, (3) most of the non-party witnesses probably live, work, and can be compelled to testify, (4)

citizens will have an interest in the outcome, (5) it will be more convenient for a court or a jury to conduct a potential examination of the alleged damage, (6) evidence will be found, and (7) controlling New York law concerning the Policy, which provides "New York homeowners coverage", will be easily applied (see Compl. at 1; dkt. entry no. 5, Macan Certification, Ex. B, Policy); and

THE COURT thus intending to order the parties to show cause why the action should not be transferred to the Eastern District of New York; and for good cause appearing;

IT IS THEREFORE on this 9th day of March, 2009 **ORDERED** that the pending motion to dismiss (dkt. entry no. 5) is **DENIED WITHOUT PREJUDICE**, and with leave to the movant to move anew upon proper papers, including a new notice of motion, and upon the resolution of the Order to Show Cause; and

IT IS FURTHER ORDERED that the parties shall **SHOW CAUSE** why the action should not be transferred to the United States District Court for the Eastern District of New York under 28 U.S.C. § 1404; and

IT IS FURTHER ORDERED that the parties, if responding, must file responses with the Court electronically by 5 P.M. on the following dates:

March 23, 2009 Defendants' response

March 31, 2009 Plaintiffs' response; and

IT IS FURTHER ORDERED that if a party fails to respond to this Order to Show Cause, then that party will be deemed to be in support of a transfer of venue; and

IT IS FURTHER ORDERED that this Order to Show Cause will be decided on **WEDNESDAY, APRIL 1, 2009**, or soon thereafter, without oral argument pursuant to Federal Rule of Civil Procedure 78(b).

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge